

2 **SB 5613** - S AMD 296

3 By Senators Rasmussen, Gardner, Swecker, Spanel, Kastama, and  
4 Zarelli

5 RULED OUTSIDE SCOPE AND OBJECT 04/12/01

6 On page 3, after line 3, insert the following:

7 "NEW SECTION. **Sec. 4.** The purpose of this chapter is to provide  
8 for the fair and orderly marketing of red raspberries in the state of  
9 Washington by establishing uniform grades and standards for red  
10 raspberries destined for freezing, puree, juice stock, and other  
11 processing uses. This chapter is vital to protecting the national and  
12 international reputation of red raspberry products grown and processed  
13 in this state, protecting consumers from the sale of inferior and  
14 misrepresented red raspberry products, and increasing the economic  
15 viability and profitability of farms that produce red raspberries.  
16 This chapter is enacted in the exercise of the police power of this  
17 state for the purpose of protecting the immediate and future health,  
18 safety, and general welfare of the citizens of this state.

19 NEW SECTION. **Sec. 5.** The definitions in this section apply  
20 throughout this chapter unless the context clearly requires otherwise.

21 (1) "Containers" includes pails, trays, barrels, drums, tanks,  
22 transport vessels, or other bulk containers used to store or contain  
23 red raspberries intended for further processing.

24 (2) "Department" means the department of agriculture of the state  
25 of Washington.

26 (3) "Director" means the director of the department or the  
27 director's duly authorized representative.

28 (4) "Equivalent" means that red raspberries grown outside of the  
29 state of Washington or imported from other countries meet or exceed the  
30 handling and grade standards of the state or country where they were  
31 grown and that those standards satisfy the requirements set forth in  
32 section 6 of this act, or that the red raspberries have been determined  
33 to meet the requirements of section 6 of this act using one of the  
34 methods set forth in section 9 of this act. "Equivalent" does not mean  
35 that the handling and grade standards be identical, only that the same

1 or a similar measure of quality be achieved using either set of  
2 standards.

3 (5) "Facility" means, but is not limited to, the premises where red  
4 raspberries are grown, stored, handled, delivered, or processed for  
5 sale or transportation, or where records required by rule under this  
6 chapter are stored or kept, and all vehicles and equipment used to  
7 transport red raspberries.

8 (6) "Graded" means red raspberries that have been visually  
9 inspected and determined to meet the standards set forth in section 6  
10 of this act.

11 (7) "Juice stock red raspberries" means any red raspberries  
12 destined for the production of red raspberry juice, red raspberry juice  
13 concentrate, or any other product listed in section 11 of this act.  
14 Washington No. 1 processing grade red raspberries as defined in this  
15 chapter or unclassified red raspberries may be used for juice stock.

16 (8) "Pasteurized" means the product has been subjected to heat or  
17 other approved treatment sufficient to kill harmful microorganisms.

18 (9) "Person" means any individual, firm, partnership, corporation,  
19 company, or association, and every officer, agent, or employee thereof.

20 (10) "Serious damage" means any defect, or any combination of  
21 defects, that seriously detract from the appearance or the edible or  
22 marketing quality of the red raspberry. Red raspberries that are badly  
23 deformed, leaky, moldy, decayed, or from which the core has not been  
24 removed are considered seriously damaged.

25 (11) "Ultrafiltration" means filtering to a very high level  
26 sufficient to remove foreign material including microorganisms and mold  
27 from the product.

28 (12) "Washington No. 1 processing grade red raspberries" means  
29 those raspberries that meet the requirements of section 6 of this act.

30 (13) "Well-colored" means that the whole surface of the red  
31 raspberry shows a color characteristic of a mature red raspberry.

32 (14) "Well-developed" means that the red raspberry is not misshapen  
33 because of anthracnose injury, frost injury, lack of pollination,  
34 insect injury, or other causes.

35 NEW SECTION. **Sec. 6.** (1) To qualify for the Washington No. 1  
36 processing grade, red raspberries must be washed, or cleaned as  
37 necessary, sorted, and graded at a licensed food processing facility  
38 and must meet the following standards:

- 1 (a) The red raspberries must be well-colored and well-developed;  
2 (b) The red raspberries must be free from cores, mold, decay, dirt,  
3 leaves, or other foreign material;  
4 (c) The red raspberries must not be seriously damaged by  
5 shriveling, moisture, disease, or insects; and  
6 (d) The red raspberries must not have more than eight of twenty-  
7 five fields with mold hyphae as determined by the howard mold count, or  
8 equivalent analysis.

9 (2) Not more than ten percent by volume of the red raspberries in  
10 any lot may fail to meet the requirements for Washington No. 1  
11 processing grade, as required by subsection (1) of this section,  
12 because of serious damage by any cause, and not more than two percent  
13 may be affected by mold or decay. Individual samples may contain not  
14 more than one and one-half times this tolerance, even if the average of  
15 all the samples from the lot are within this specified tolerance.

16 NEW SECTION. **Sec. 7.** Unclassified red raspberries are those that:

- 17 (1) Fail to meet the Washington No. 1 processing grade standards;  
18 (2) Are not graded; or  
19 (3) Are in unmarked containers.

20 The term "unclassified" means no grade has been applied to the lot.

21 NEW SECTION. **Sec. 8.** Marking requirements for red raspberry  
22 containers are as follows:

23 (1) Washington No. 1 processing grade red raspberry containers may  
24 be marked with the name and address of the grower, packer, or shipper,  
25 and must be prominently marked with the grade "Washington No. 1  
26 processing grade red raspberries."

27 (2) Any combination of Washington No. 1 processing grade red  
28 raspberries and unclassified red raspberries must be in containers  
29 prominently marked "juice stock red raspberries."

30 (3) Unclassified red raspberries must be in containers that are  
31 prominently marked "juice stock red raspberries."

32 NEW SECTION. **Sec. 9.** Washington No. 1 processing grade red  
33 raspberries may be used or sold for straight pack, individually quick  
34 frozen, puree stock, puree concentrate, juice, juice concentrate, or  
35 for any other type of use.

1        NEW SECTION.    **Sec. 10.**    Red raspberry puree stock must be red  
2 raspberries that meet Washington No. 1 processing grade standards and  
3 have been graded and cleaned, washed, and sorted in a licensed food  
4 processing facility to remove harmful or foreign material.

5        NEW SECTION.    **Sec. 11.**    Product designated or marked as "juice  
6 stock red raspberries" must be used and sold only for processing into  
7 wine, ultrafiltered, or pasteurized juice products or juice concentrate  
8 filtered sufficiently to remove foreign material including mold from  
9 the product, or for distilling.

10       NEW SECTION.    **Sec. 12.**    Red raspberries designated or marked as  
11 "juice stock red raspberries" may not be sold or used to produce puree,  
12 puree concentrate, or any red raspberry products other than those  
13 designated in section 11 of this act.

14       NEW SECTION.    **Sec. 13.**    (1) Red raspberries grown outside of the  
15 state of Washington or imported from other countries are deemed  
16 equivalent to Washington No. 1 processing grade red raspberries when:

17        (a) The other state or country has grading standards or  
18 requirements for red raspberries, those grading standards or  
19 requirements have been reviewed by the department and a written  
20 determination has been made by the department that those grading  
21 standards or requirements meet or exceed the standards set forth in  
22 section 6 of this act, and the red raspberries grown out of state or  
23 imported are accompanied by documents that certify that the red  
24 raspberries have been determined by a government inspection authority  
25 or competent third party to meet or exceed those standards;

26        (b) The red raspberries are obtained from a state or country that  
27 has an active memorandum of understanding with the department that  
28 covers the inspection and grading of red raspberries, and the red  
29 raspberries grown out of state or being imported are accompanied by  
30 documents from a government inspection authority or competent third  
31 party that state that the red raspberries meet or exceed the grading  
32 standards set forth in section 6 of this act;

33        (c) The red raspberries are obtained from a grower, processor,  
34 supplier, or exporter who provides continuing or lot specific  
35 inspections and documentation, and verification from a competent third

1 party that the red raspberries meet or exceed the grade standards set  
2 forth in section 6 of this act; or

3 (d) The director, at the request of a third party or on the  
4 director's own initiative, has determined in writing that the red  
5 raspberries obtained from a particular source, on a lot specific or a  
6 continuing basis, meet or exceed the grade standards set forth in  
7 section 6 of this act.

8 (2) The documentation accompanying red raspberries grown outside of  
9 the state or imported from another country must show that the red  
10 raspberries have undergone inspection, meet one of the criteria  
11 specified in subsection (1)(a) through (d) of this section, and must be  
12 in English.

13 NEW SECTION. **Sec. 14.** Any red raspberries or red raspberry  
14 products that are adulterated, as provided under RCW 69.04.210,  
15 including through the deliberate addition of moldy product, or any red  
16 raspberries or red raspberry products containing unacceptable levels of  
17 filth or mold, may not be sold or processed for any purpose.

18 NEW SECTION. **Sec. 15.** This chapter does not apply to:

19 (1) Red raspberries harvested before June 2001; or

20 (2) Red raspberries destined for fresh market.

21 NEW SECTION. **Sec. 16.** The director shall enforce and carry out  
22 the provisions of this chapter and may adopt the necessary rules to  
23 carry out its purpose. Chapter 34.05 RCW governs the rights, remedies,  
24 and procedures respecting the administration of this chapter.

25 NEW SECTION. **Sec. 17.** In addition to the powers conferred on the  
26 director under this chapter, the director has the power to adopt:

27 (1) Rules establishing recordkeeping requirements; and

28 (2) Any other rule necessary to implement this chapter.

29 NEW SECTION. **Sec. 18.** The director may adopt rules establishing  
30 fees to recover the costs of administering this chapter. All moneys  
31 collected under this chapter shall be paid to the director, deposited  
32 in an account within the agricultural local fund created in RCW  
33 43.23.230, and used solely for carrying out the purposes of this  
34 chapter and rules adopted under this chapter.

1        NEW SECTION.    **Sec. 19.**    The director may enter at reasonable times  
2 as determined by the director and inspect any facility and any records  
3 required under this chapter.    The director may take for inspection  
4 those representative samples of red raspberries necessary to determine  
5 whether or not this chapter or rules adopted under this chapter have  
6 been violated.    If the director is denied access to any facility or  
7 records, the director may apply to a court of competent jurisdiction  
8 for a search warrant authorizing access to the facility or records.  
9 The court may upon such an application issue a search warrant for the  
10 purpose requested.

11       NEW SECTION.    **Sec. 20.**    The director may bring an action to enjoin  
12 any violation of this chapter or rule adopted under this chapter in the  
13 superior court of Thurston county or of any county in which a violation  
14 occurs, notwithstanding the existence of other remedies at law.

15       NEW SECTION.    **Sec. 21.**    The director may cooperate with and enter  
16 into agreements with governmental agencies of this state, other states,  
17 and agencies of the federal government in order to carry out the  
18 purpose and provisions of this chapter.

19       NEW SECTION.    **Sec. 22.**    It is unlawful for a person to sell, offer  
20 for sale, hold for sale, or ship or transport red raspberries in  
21 violation of this chapter or rules adopted under this chapter.

22       NEW SECTION.    **Sec. 23.**    Any person who violates the provisions of  
23 this chapter or rules adopted under this chapter may be subject to a  
24 civil penalty in an amount of not more than one thousand dollars for  
25 each violation.

26       NEW SECTION.    **Sec. 24.**    The provisions of this chapter are  
27 cumulative and nonexclusive and do not affect any other remedy.

28       NEW SECTION.    **Sec. 25.**    Sections 4 through 24 of this act  
29 constitute a new chapter in Title 15 RCW.

30       NEW SECTION.    **Sec. 26.**    If any provision of this act or its  
31 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other  
2 persons or circumstances is not affected.

3       NEW SECTION.   **Sec. 27.**   This act is necessary for the immediate  
4 preservation of the public peace, health, or safety, or support of the  
5 state government and its existing public institutions, and takes effect  
6 June 1, 2001."

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11       On page 1, line 1 of the title, after "products;" strike the  
12 remainder of the title and insert "adding new sections to chapter 15.64  
13 RCW; adding a new chapter to Title 15 RCW; creating a new section;  
14 prescribing penalties; providing an effective date; and declaring an  
15 emergency."

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